

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

AARON D. JOHNSON,

Plaintiff,

CASE NO. 07cv957-MMA (WMc)

vs.

V. M. ALMAGER, et al.,

Defendant.

**ORDER ADOPTING REPORT AND
RECOMMENDATION OF UNITED
STATES MAGISTRATE JUDGE;**

[Doc. No. 78]

**GRANTING DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT**

[Doc. No. 69]

Plaintiff Aaron D. Johnson, a California state prisoner proceeding *pro se*, filed a Second Amended Complaint pursuant to 42 U.S.C. § 1983 alleging violation of rights guaranteed to him by the Americans with Disabilities Act and the Eighth Amendment of the United States Constitution. Defendants move for summary judgment pursuant to Federal Rule of Civil Procedure 56. After being duly notified of the requirements and consequences of the motion, Plaintiff filed an opposition, *see Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998) (en banc), to which Defendants replied. The matter was referred to United States Magistrate Judge William McCurine, Jr. for preparation of a Report and Recommendation under 28 U.S.C. § 636(b)(1)(B) and Civil Local Rule 72.3. Judge McCurine issued a well-reasoned and thorough Report recommending the Court grant

1 Defendants' motion, and set a deadline of December 21, 2010 for the filing of objections. To date,
2 neither party has objected to the Report and Recommendation, nor has there been any request for
3 additional time to file objections.

4 A district court's duties concerning a magistrate judge's report and recommendation and any
5 objections thereto are set forth in Rule 72 (b) of the Federal Rules of Civil Procedure and 28 U.S.C.
6 § 636(b)(1). When no objections are filed, the district court is not required to review the magistrate
7 judge's report and recommendation. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th
8 Cir. 2003) (holding that 28 U.S.C. 636(b) (1) (C) "makes it clear that the district judge must review
9 the magistrate judge's findings and recommendations *de novo* if objection is made, but not
10 otherwise") (emphasis in original); *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Arizona
11 2003) (concluding that where no objections were filed, the district court had no obligation to review
12 the magistrate judge's report). This rule of law is well established within the Ninth Circuit and this
13 district. *See Wang v. Masaitis*, 416 F.3d 992, 1000 n. 13 (9th Cir. 2005) ("Of course, *de novo*
14 review of a R & R is only required when an objection is made to the R & R.") (emphasis added)
15 (citing *Reyna-Tapia*, 328 F.3d 1121).

16 Notwithstanding Plaintiff's failure to object, the Court has reviewed the submissions of the
17 parties and the Report and Recommendation. Finding the Report thorough and accurate and the
18 Recommendation sound in its analysis and conclusions, the Court **ADOPTS** the Report and
19 Recommendation in its entirety and **GRANTS** Defendants' motion for summary judgment. The
20 Clerk of Court is instructed to enter judgment in favor of Defendants and terminate the case.

21 **IT IS SO ORDERED.**

22 DATED: January 28, 2011

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24 Hon. Michael M. Anello
25 United States District Judge
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